



**DEPARTMENT OF
FINANCE**

EDMUND G. BROWN JR. • GOVERNOR

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December 15, 2012

Mr. Gary Chapman, Finance Director
City of Fortuna
P.O. Box 545
621 11th Street
Fortuna, CA 95540

Dear Mr. Chapman:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Fortuna Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 10, 2012. Finance issued a LMIHF DDR determination letter on November 9, 2012. Subsequently, the Agency requested a Meet and Confer session on one item adjusted by Finance. The Meet and Confer Session was held on November 29, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising the adjustments made in our previous LMIHF DDR determination letter. Specifically, we are revising the adjustment as noted below:

Notes Receivable totaling \$2 million related to the Rohner Village Housing Project (Project). Finance initially denied the use of LMIHF for this loan because the loan agreements related to the project were signed in March 2012. After review of documents provided during the Meet and Confer process, Finance has determined that the Disposition and Development Agreement dated April 7, 2008 supports the Agency's obligations to this project. Furthermore, the cash payment was traced to the Agency's January through June 2012 ROPS, which was approved by Finance. Therefore, Finance is reversing the \$2 million adjustment as indicated in our previous letter dated November 9, 2012.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$1,290,093, which is in agreement with the DDR submitted to Finance.

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment

agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated August 29, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Beliz Chappuie, Supervisor or Cindie Lor, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Regan Candelario, City Manager
Mr. Joe Mellett, Auditor-Controller, Humboldt County
Ms. Iris P. Yang, Attorney
California State Controller's Office